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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 PAUL A. WESBECHER,

No. CIV S-04-0807-FCD-CMK

12 Petitioner,

13 vs.

ORDER

14 DANIEL FOY,

15 Respondent.  
16 \_\_\_\_\_/

17 Petitioner, who is no longer in custody, is proceeding pro se and in forma pauperis  
18 in this petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254. Pending before  
19 the court is petitioner's request for a certificate of appealability (Doc. 44), filed on July 11, 2006.

20 Before petitioner can appeal this decision, a certificate of appealability must issue.  
21 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability may issue under 28  
22 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a  
23 constitutional right." 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of  
24 appealability indicating which issues satisfy the required showing or must state the reasons why  
25 such a certificate should not issue. Fed. R. App. P. 22(b).

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